IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.289 OF 2003

M/s Oswal Bandhu and Co. and ors. ... Petitioners

v/s

M/s Pannalal Ramnarayan ... Respondents

Mr S.K. Jain for Petitioners.

Mr A.R. Dhanuka i/b Mr S.M. Jain for Respondents.

CORAM : D.K.DESHMUKH J.

DATE : 22ND FEBRUARY 2005

P.C.: -

1. By this petition filed under section 34 of the Arbitration and Conciliation Act 1996, an award made by the Arbitral Tribunal of the Hindustan Chamber of Commerce is challenged. Admittedly, it is an ex-parte award. The petitioners did not appear before the Arbitral Tribunal. After having heard learned counsel for both the sides and especially considering the willingness expressed by the petitioners to deposit the amount of principal i.e. Rs.2,75,000/-, following order would meet the ends of justice.

2. The award impugned in the petition is set aside. By consent of parties, Mr S.R. Shah is appointed as Sole Arbitrator. The disputes between the parties in relation to which the award impugned in the petition was made are referred to the Arbitrator. The reference shall be decided in accordance with the provisions of the Arbitration and Conciliation Act 1996. The parties shall file their respective pleadings afresh, all contentions available to both the sides are kept open. This order is subject to the condition that within a period of four weeks from today, the petitioners deposit in this Court an amount of

Rs.2,75,000/- with due intimation to the respondents. The Prothonotary and Senior Master of this Court shall permit the respondents to withdraw the amount on submitting an undertaking to this Court undertaking to redeposit the amount if so directed by this Court or by the Arbitrator or on such terms and conditions as may be directed by this Court or by the Arbitrator. In case the respondents do not withdraw the amount within a period of four weeks from he date of its deposit, the amount be invested in fixed deposit in a nationalised Bank. The disposal of the amount shall be governed by the award that may be passed by the Arbitrator or by the order of this Court. If the petitioners fail to make deposit of the amount within the aforesaid period as directed, this petition shall be treated as dismissed without any orders. This order be communicated to the learned Arbitrator by the petitioners. This order shall take effect only after the amount is deposited by the petitioners. Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.